Supreme Court, U.S.
FILED

96 442 SEP 18 1996.

OFFICE OF THE CLERK

No._____

IN THE
Supreme Court of the United States
OCTOBER TERM, 1996

SHIRLEY MORA,
Petitioner,

v.

THE UNITED STATES OF AMERICA,
Respondent.

Petition for Writ Of Certiorari
To The United States Court of Appeals
For the Eighth Circuit

PETITION FOR WRIT OF CERTIORARI

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32 pp

QUESTION PRESENTED

1. The 8th Circuit permits the government to submit evidence of other uncharged crimes, pursuant to Fed. R. Evid. 404(b), even when the government has no evidence establishing that the defendant was the actor who committed the other crime. This violates *Huddleston v. United States*. Should the United States Supreme Court allow the 8th Circuit to disregard its authority?

LIST OF ALL PARTIES

Petitioner/Appellant/Defendant

Shirley Mora

Douglas C. McNabb
Appellate Attorney for Petitioner/Appellant

Stephen H. Gilmore
Trial Attorney for Petitioner/Appellant

Respondent/Appellee/Plaintiff
United States of America

Jonathan I. Goldstein
Assistant United States Attorney
for Respondent/Appellee

Solicitor General
United States Department of Justice
for Respondent/Appellee

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Petitioner, Shirley Mora, respectfully prays that a Writ of Certiorari issue to review and reverse the Judgment of the United States Court of Appeals for the Eighth Circuit.

OPINIONS BELOW

The Opinion of the United States Court of Appeals for the Eighth Circuit is enclosed and printed as Appendix A.

JURISDICTION

The trial court's judgment was entered on September 8, 1995. The Eighth Circuit affirmed Petitioner's conviction on April 19, 1996. Rehearing was denied on June 20, 1996. This petition was timely filed within 90 days of the Eighth Circuit's order denying rehearing. This Court's jurisdiction is invoked under 28 U.S.C. § 1254.

STATUTE

Fed. R. Evid. 404(b) Appendix D

STATEMENT OF THE CASE

On February 2, 1994, Shirley Mora, Petitioner, ("Mora"), was indicted by a federal grand jury on four counts of mail fraud, in violation of Title 18 U.S.C. §§ 1341 and 1342. The charges arose out of an insurance claim for a fire that destroyed her home.

Mora's trial began on June 7, 1995. On June 14, 1995, she was found guilty as to all counts. On September 8, 1995, Mora was sentenced to twenty-seven months imprisonment and two years supervised release. She timely filed her Notice of Appeal and is currently incarcerated.

On appeal, Mora argued that the trial court violated United States Supreme Court precedent, and Rules 404(b) and 403 Fed. R. Evid., by allowing the government to, in effect, try her for the uncharged crime of arson, under the guise of mail fraud.

Mora conceded in her appeal that evidence regarding the **source** of the fire that destroyed her home was admissible and relevant. Logically, the government should have been allowed to demonstrate that the fire was not an accident.

However, the trial court erred in that it did not limit the arson evidence to the source of the fire. The court gave the government *carte blanche* on arson evidence. The court repeatedly abused its discretion in allowing the government to introduce and argue anything regarding the fire. The court erred by allowing the government to focus almost its entire case on arson. The evidence was inflammatory, cumulative, and repetitive. Further, in closing argument, the trial court erred by allowing the government to argue that Mora was the arsonist who destroyed her home.

Arson is an abhorrent, odious crime. The government did not have any evidence, direct or circumstantial, to support such a serious, inflammatory allegation. Mora was unjustly prejudiced by the government's repeated unsubstantiated assertions. Furthermore, the jury was likely confused as to the issues of the case. Mora argued that the government strategically blended the issues of arson and mail fraud to confuse the jury and unjustly prejudice Petitioner. The court provided absolutely no instruction as to the proper interpretation of the 404(b) arson evidence.

The arson evidence and arguments, beyond the source of the fire, should have been excluded. The government did

not have any proof that Mora was the arsonist who destroyed her home. The probative value of the arson evidence was substantially outweighed by the unfair prejudice it caused Petitioner and as well as causing a confusion of the issues.

Despite her arguments, on April 19, 1996, the United States Court of Appeals for the 8th Circuit affirmed Petitioner's conviction. Rehearing was denied on June 20, 1996.

REASON FOR GRANTING THE PETITION

> The 8th Circuit permits the government to submit evidence of other uncharged crimes, pursuant to Fed.R. Evid. 404(b), even when the government has no evidence establishing that the defendant was the actor who committed the other crime. This violates *Huddleston v. United States*. Should the United States Supreme Court allow the 8th Circuit to disregard its authority?

At trial, the government argued, over objection, that Mora was guilty of arson. The arson evidence and arguments were submitted pursuant to Fed. R. Evid. 404(b). On appeal, Mora argued that the admission of this evidence and argument violated *Huddleston v. United States*, 485 U.S. 681 (1988).

In *Huddleston*, this court ruled that "similar act evidence [404(b)] is relevant **only** if the jury can reasonably conclude that the act occurred **and that the defendant was the actor**. *Id.* at 689 [emphasis added].

To justify the trial court's ruling that the 404(b) evidence was admissible, the 8th Circuit changed the

description of the other crime evidence. It concluded that the 404(b) other crime evidence was not of arson, *per se*. Rather, it found that the other crime was "that she knew that her house was to be destroyed by arson." *[App. Infra. 6a.]* Mora's alleged foreknowledge of arson was supposedly the "other crime" the government intended to prove that she committed.

The record contradicts the 8th Circuit's conclusion. The government intended to paint Mora as a despicable arsonist. The 8th Circuit completely disregarded the government's unjust arguments that went **far beyond** suggesting that Mora merely had foreknowledge of arson. Some unjustly prejudicial examples of what the government said to the jury are as follows:

1) "A series of fabrications that started with the insurance claim that she presented to Safeco Insurance Company on a house that she knew was intentionally burned." (Tr. 1221)

2) "The scheme was already in motion when Shirley Mora came back from Houston on her trip. She planned that trip precisely around the day so the fire, so she was gone right when that fire took place, prepurchased tickets, boarding passes, no change ticket. She knew the house was to be burned on or around April 2, 1993." (Tr. 1223)

3) "Why don't you tell the truth to the insurance company about when you've tried to sell the house?....they might get suspicious. They might know that Shirley Mora had something to do with the fire and with the fraudulent claim." (Tr. 1231)

4) "...do you remember Mr. Gilmore [Mora's trial attorney] objecting that he [expert Prichard] couldn't give his opinion about whether this was a set fire or not? Mr Prichard knew it was a set fire. And you've got to ask yourselves. "Why did Mr. Gilmore [Mora's trial attorney] not want him to state that opinion?" (Tr. 1224)

5) It's a set fire there's no doubt about it. And more important, ladies and gentlemen, ask yourself why is Mr. Gilmore [Mora's trial attorney] fighting that issue so hard? Why is he fighting the fact that this is a set fire? It's because, ladies and gentlemen, our evidence, circumstantial though it is, ties Shirley Mora to that fire, and the judge will instruct you that circumstantial evidence is every bit as important as direct evidence." (Tr. 1257)

The government wanted the jury to believe that Mora was an arsonist. The other crime was arson, not just foreknowledge of arson as the 8th Circuit states in its opinion.

But, by changing the semantic description of the other crime evidence from arson to foreknowledge of arson, the 8th Circuit is opening the door for prosecutors to strategically circumvent the dictates of *Huddleston*. In effect, the 8th Circuit's opinion authorizes the government to submit 404(b) evidence of other crimes, even if it has no evidence that the accused actually committed the other crime. If the government does not have any proof that the defendant committed the 404(b) other crime, it can merely allege that the defendant *knew* about the other crime. Defendants will

be unjustly prejudiced by evidence of other crimes, for which there is no evidence that they committed. Verdicts will be tainted.

As this Honorable Court stated in *Huddleston*, to submit 404(b) evidence of other crimes, justice requires that the government prove that the defendant was "the actor" who committed the other crime. This requirement is essential because it precludes the government from tainting the jury's verdict with inadequate, vague, and unsubstantiated evidence of other crimes. The 8th Circuit has opened the back door for prosecutors. They will be allowed to submit evidence of other crimes, without any basis that the accused committed these other crimes. Prosecutors can side step this important requirement with slick rewording of the description of the other crime. Evidence can now be submitted merely on the basis that the accused knew about these other crimes. The 8th Circuit's decision could lead to many travesties of justice.

The 8th Circuit's ruling directly violates the principles of *Huddleston* and its progeny. If allowed to stand, the opinion will provoke great confusion and mass injustice. Many defendants could be unjustly convicted as the result of highly inflammatory, unsubstantiated evidence of other crimes submitted under the 8th Circuit's new 404(b) admissibility analysis. The 8th Circuit should be required to adhere to the principles of *Huddleston*. This court's intervention is necessary.

CONCLUSION AND PRAYER

The United States Court of Appeals for the Eighth Circuit has committed a significant error. As it now stands, in the 8th Circuit, 404(b) evidence of other crimes is admissible, even if the government cannot establish that the defendant committed the other crime. The appellate court has violated precedent established by this Court. The issue presented is important to the jurisprudence of the nation.

For these reasons, Petitioner, SHIRLEY MORA, respectfully prays that this Court issue a Writ of Certiorari to review the Opinion of the United States Court of Appeals for the Eighth Circuit, and for such other and further relief to which she may be entitled.

Respectfully submitted,

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Attorney for Petitioner
SHIRLEY MORA

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 95-3365

United States of America, Appellee,	*	
	*	Appeal from the
	*	United States District
	*	Court for the
v.	*	Eastern District
	*	of Missouri.
Shirley Mora, Appellant.	*	

Submitted: March 12, 1996
Filed: April 19, 1996

Before MAGILL, FLOYD R. GIBSON, and HEANEY, Circuit Judges.

MAGILL, Circuit Judge.

Shirley Mora appeals her conviction on four counts of mail fraud in violation of 18 U.S.C. §§ 1341 and 1342, arguing that the district court[1] abused its discretion in allowing the government to present "other crimes" evidence. We affirm.

[1] The Honorable Jean C. Hamilton, United States District Judge for the Eastern District of Missouri.

I.

In December 1988, Mora's father passed away, leaving Mora an estate which included a house on Red Bud Drive in Pacific, Missouri. The house, valued at $159,000, was insured against fire loss by the Safeco Insurance Company of America (Safeco). On April 2, 1993, the house was destroyed by fire.

Mora submitted claims to Safeco for the loss of the house and its contents in the amount of $211,720.75.[2] Safeco denied her claims, and on January 4, 1994, she brought an unsuccessful civil suit against Safeco to recover her losses.

On February 2, 1994, Mora was indicted by a federal grand jury on four counts of mail fraud. While the indictment alleged that the fire that destroyed Mora's house had been set, it did not allege that Mora had set the fire or caused it to be set, and arson was not directly at issue in any of the four counts. The indictment did allege that, as part of an elaborate scheme to defraud Safeco, Mora knowingly made a host of misrepresentations to Safeco. First, although Mora did not live at the Red Bud Drive residence, a requirement for coverage under the Safeco policy, she informed Safeco that she did. To bolster her claim that the fire had displaced her, Mora also rented a hotel room, and later a temporary apartment and furniture. Finally, because the Safeco policy further limited coverage to Mora's personal property, Mora claimed that the personal property of acquaintances, who were residing at the Red Bud Drive house, actually belonged to her.

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[2] This figure was later increased to $238,556.75.

Prior to trial, Mora filed a motion in limine to exclude evidence of arson, which was denied by the district court. During the course of the trial, Mora made ongoing objections to evidence regarding the cause of the fire and her knowledge of the arson. Mora's objections were overruled by the district court, and the government introduced evidence that the fire had an incendiary cause, that Mora had experienced financial distress prior to the arson, creating a motive for fraud, and that Mora had known that the arson was to occur.[3] Following a jury trial, Mora was convicted of all four counts of mail fraud, and she was sentenced to twenty-seven months imprisonment for each count, to run concurrently.

Mora brings this timely appeal, arguing that Federal Rules of Evidence 403 and 404 should have prevented the government from introducing evidence of arson and Mora's foreknowledge of the arson, because the evidence was irrelevant and prejudicial.

II.

We review the district court's admission of other crimes evidence for abuse of discretion. *See United States v. Smith*, 49 F.3d 475, 478 (8th Cir. 1995). The admissibility of other crimes evidence is governed by Federal Rule of Evidence 404(b), which provides:

---

[3] For example, the government introduced evidence that accelerants had been used at the fire scene, that Mora had lost a large amount of money on bad investments and had repeatedly tried, unsuccessfully, to sell the Red Bud Drive property, and that, immediately before the fire, Mora arranged to fly to Texas to visit her daughter, stayed several days, and flew back to Missouri immediately after the fire.

> Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan,. knowledge, identity, or absence of mistake or accident . . . .

We have crafted a four-part test to determine if other crimes evidence is admissible under Rule 404(b). Such evidence is admissible when: (1) the evidence of the bad act or other crime is relevant to a material issue raised at trial; (2) the bad act or crime is similar in kind and reasonably close in time to the crime charged; (3) there is sufficient evidence to support a finding by the jury that the defendant committed the other act or crime; and (4) the potential prejudice of the evidence does not substantially outweigh its probative value. *United States v. DeAngelo*, 13 F.3d 1228, 1231 (8th Cir.), *cert. denied*, 114 S. Ct. 2717 (1994); *see also United States v. Mejia-Uribe*, 75 F.3d 395, 397-98 (8th Cir. 1996); *Smith*, 49 F.3d at 478. All of these factors have been met in this case.

A. Relevance

Relevance of evidence "is established by any showing, however slight, that [the evidence] makes it more or less likely that the defendant committed the crime in question." *United States v. Casares-Cardenas*, 14 F.3d 1283, 1287 (8th Cir.) (construing Federal Rule of Evidence 401), *cert. denied*, 115 S. Ct. 147 (1994). For a jury to decide if Mora had intended to "devise [a] scheme or artifice to defraud" her insurance company, 18 U.S.C. § 1341, it is highly relevant whether the fire was a serendipitous accident, or whether it was a planned event. If Mora knew that the fire was to take place, her misrepresentations to Safeco were more likely

intentional and part of a coordinated plan, rather than inadvertent, isolated misstatements.

B. Closeness in time and similarity

Although Mora apparently concedes that the arson and mail fraud occurred closely together in time, *see* Appellant's Br. at 18, she asserts that "the offenses are not similar." *Id.* For this evidence to be admissible, however, the prior acts "need not be duplicates of the one for which the defendant is now being tried," *United States v. Lloyd*, 71 F.3d 1256, 1265 (7th Cir. 1995) (quotations and emphasis omitted) (evidence that defendant had been target of assassination attempts relevant to his motive to possess firearms), because the "admissibility of other crimes evidence depends on the nature and purpose of the evidence." *Mejia-Uribe*, 75 F.3d at 398. Here, evidence that Mora withheld information about arson from Safeco is sufficiently similar to the charge that she misrepresented her claims to Safeco to help prove her intent to defraud, and satisfies this prong of the test.

C. Sufficient evidence

While conceding that "from the evidence, it was reasonable to conclude that arson caused the fire, " Appellant's Br. at 16, and complaining that the "sheer voluminosity of [evidence of arson] was overwhelmingly persuasive and convincing that someone was guilty of the horrible crime of arson, and that someone was Shirley Mora," Appellant's Reply Br. at 7, Mora nevertheless argues that "the government did not offer any evidence which indicated that Appellant participated in the offense of arson." Appellant's Br. at 17.

Mora was not indicted for the crime of arson, however, and the government never set out to prove that she

was guilty of arson. Rather, to prove that Mora had committed mail fraud, the government introduced other crimes evidence that Mora knew that her house was to be destroyed by arson. For this evidence to be relevant, the government had the burden of proving, by a preponderance of evidence, that Mora had this foreknowledge of arson. *See Huddleston v. United States*, 485 U.S. 681, 690 (1988) (burden of proof). The government met this burden, most significantly by introducing evidence that Mora, prior to the arson, had arranged to be in Texas from March 30, 1993, until April 4, narrowly bracketing the arson date of April 3. The government's post-arson evidence, showing the extent to which Mora immediately attempted to misrepresent her losses to Safeco, also tended to prove a well-developed plan based on foreknowledge of the arson.

D. Prejudice

Finally, Mora argues that evidence of arson and her knowledge of arson was unduly prejudicial, and was inadmissible under both Federal Rules of Evidence 404(b) and 403. We disagree. This Court has "held that the jury in a criminal case is entitled to know about the context of a crime and any events that help explain the context." *DeAngelo*, 13 F.3d at 1232. As noted above, the evidence admitted was highly relevant to the context of Mora's commission of mail fraud. While we agree with Mora that arson is a "heinous[,] . . . egregious and abhorrent" crime, Appellant's Br. at 22, we do not believe that its unfairly prejudicial impact, if any, "substantially outweighed" its relevance in this case. *See* Fed. R. Evid. 403.

Accordingly, we affirm the judgment of the district court.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS,
EIGHTH CIRCUIT

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 95-3365EMSL		
United States of America,	*	
Appellee,	*	
	*	Appeal from the
v.	*	United States
	*	District Court for
Shirley Mora,	*	the Eastern District
Appellant.	*	of Missouri

JUDGMENT

This appeal from the United States District Court was submitted on the record of the district court, briefs of the parties and was argued by counsel.

After consideration, it is hereby ordered and adjudged that the judgment of the district court in this cause is affirmed in accordance with the opinion of this Court.

April 19, 1996

A true copy.

ATTEST: /s/ Michael E. Gens
CLERK, U.S. COURT OF APPEALS,
EIGHTH CIRCUIT.

APPENDIX B

JUDGMENT OF THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

United States of America
V.

Judgment In a Criminal Case
(For Offenses Committed On or After 11/1/87)

Shirley Mora
(Name of Defendant

Case Number: 4:95cr31JCH

Douglas C. McNabb
Defendant's Attorney

THE DEFENDANT:

[ ] Pleaded guilty to count(s)_____.

[X] Was found guilty on count(s) 1, 2, 3, 4 after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18USC1341 and 2	Mail Fraud	2/2/95	1-4

The defendant is sentenced as provided in pages 2 through 4 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

[ ] The defendant has been found not guilty on count(s) _____, and is discharged as to such count(s).

[ ] Count(s) _____ (is) (are) dismissed on the motion of the United States.

[X] It is ordered that the defendant shall pay to the United States a special assessment of $ 200.00, for count(s) 1, 2, 3, 4, which shall be due [X] immediately [ ] as follows:

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Defendant's Soc. Sec. No.: 499-36-0387
Defendant's Date of Birth: 7/17/32

Defendant's mailing address:
209 Enchanted Parkway #2
Manchester, MO 63021

Defendant's residence address :
Same as above

9/8/95
Date of Imposition of Sentence

/s/ Jean C. Hamilton
Signature of Judicial Officer

Jean C. Hamilton
U.S. District Judge
Name and Title of Judicial Officer

9/8/95
Date

Defendant: Shirley Mora
Case Number: 4:95cr31JCH

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of:

Twenty seven (27) months. This term consists of 27 months on each of courts 1 - 4 such term to run concurrently.

[X] The Court makes the following recommendations to the Bureau of Prisons:
that if space is available and defendant qualifies, defendant be incarcerated in the FPC, Bryan, TX

[ ] The defendant is remanded to the custody of the United States Marshal.

[ ] The defendant shall surrender to the United States Marshal for this district,
a.m.
[ ] at _____ p.m. on _____.

[ ] as notified by the Marshal.

[X] The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons,

[ ] before 2:00 p.m. on _____.

[X] as notified by the United States Marshall.
[ ] as notified by the Probation Office.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____ at _____, with a certified copy of this Judgment.

_____
United States Marshal

By _____
Deputy Marshal

Defendant: Shirley Mora
Case Number: 4:95cr31JCH

SUPERVISED RELEASE

Upon release from imprison, the defendant shall be on supervised release for a term of:

Two (2) years. This term consists of two years on each of counts 1-4 such term to run concurrently.

While on supervised release, the defendant shall not commit another Federal, state, or local crime and shall not illegally possess a controlled substance. The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). If this Judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

[X] *The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.*

[ ] *The defendant shall pay any fines that remain unpaid at the commencement of the term of supervised release.*

[ ] *The defendant shall participate in a program of testing and treatment for alcohol and drug abuse, as directed by the probation officer, until such time as the defendant is released from the program by the probation officer*

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on probation or supervised release pursuant to this Judgment, the defendant shall not commit another Federal, state or local crime. In addition:

1) *the defendant shall not leave the judicial district without permission of the court or probation officer;*

2) *the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;*

3) *the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;*

4) *the defendant shall support his or her dependents and meet other family responsibilities;*

5) *the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;*

6) *the defendant shall notify the probation officer within seventy-two hours of any change in residence or employment;*

7) *the defendant shall refrain from excessive use of alcohol and shall not purchase, possess,use, distribute, administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;*

8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;

9) the defendant shad not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;

10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;

11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;

12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;

13) as directed by the probation officer, the defendant shall notify third party risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notification and to confirm the defendant's compliance with such notification requirement;

14) the defendant shall not possess a firearm or destructive device.

Judgment--Page 4 of 4

Defendant: Shirley Mora
Case Number: 4:95cr31JCH

STATEMENT OF REASONS

[X] The Court adopts the factual findings in the presentence report as to the applicable guideline factors,

OR

[ ] The Court adopts the factual findings in the presentence report as to the applicable guideline factors except:

(See attachments if necessary)

Guideline Range as Determined by the Court:

Total Offense Level: 18
Criminal History Category: I
Imprisonment Range: 27 to 33 months
Supervised Release Range: 2 to 3 years
Fine Range: $ 6,000 to $ 60,000
$ _____ Restitution $ 200.00 Special Assessment

[X] Fine waived or imposed below guideline range because of inability to pay.

[X] Sentence Imposed is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

[ ] Because the width of the guideline range exceeds 24 months, the reason for selecting this particular point within the range is:

[ ] The Court departs from the Guideline (See attachments if necessary)

[ ] upon motion of the government, as a result of defendant's substantial assistance.

[ ] for the following reason(s):

[ ] Court orders transcript of Statement of Reasons to be attached.

APPENDIX C

ORDER DENYING REHEARING

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 95-3365EMSL

United States of America,	*	
Appellee,	*	Order Denying
	*	Petition for
v.	*	Rehearing and
	*	Suggestion for
Shirley Mora,	*	Rehearing En Banc
Appellant.	*	

The suggestion for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

June 20, 1996

Order Entered at the Direction of the Court:

/s/ Michael E. Gens
Clerk, U.S. Court of Appeals, Eighth Circuit

APPENDIX D

Fed.R.Evid. 404(b)

Other crimes, wrongs, or acts. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may however, be admissible for other purposes, such as proof of motive, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.